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September 4, 2003

Via Electronic Submission

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Communication
Telephone Number Portability, CC Docket No. 95-116

Dear Ms. Dortch:

This letter serves as notification that on September 3, 2003, Luisa Lancetti representing Sprint Corporation met with John Muleta, Chief of the Wireless Telecommunication Bureau and Jared Carlson, David Furth, Cathy Siedel, Walt Strack, and Jennifer Tomchin of the Bureau, to discuss pending issues in the above referenced proceeding. Joe Assenzo and Charles McKee of Sprint participated by conference call. Implementation issues regarding LEC-CMRS porting were discussed with a focus on recent Sprint *ex parte* filings made on this issue. A copy of the *ex parte* material discussed at the meeting is attached hereto.

Pursuant to Section 1.1206 of the Commission's rules, this letter is being electronically filed with your office. Please associate this letter with the file in the above referenced proceeding.

Respectfully submitted,



Luisa L. Lancetti

Attachment

cc: John Muleta
Jared Carlson
David Furth
Cathy Seidel
Walt Strack
Jennifer Tomchin

Attachment 1



September 2, 2003

Via Electronic Mail Delivery

John A. Rogovin, General Counsel
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Mr. William Maher, Chief
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Mr. John Muleta, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
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Re: *Written Ex Parte Communication*
CTIA Wireless LNP Implementation Declaratory Ruling Petitions,
CC Docket No. 95-116
Sprint Declaratory Ruling Petition Regarding Traffic Routing and Rating,
CC Docket No. 01-92

Gentlemen:

This letter addresses certain concerns that have been raised regarding the authority of the FCC to grant the relief sought in the above dockets given the current state of the record. Specifically, the question has arisen whether sufficient notice has been provided under the Administrative Procedure Act, 5 U.S.C. § 553(b) ("APA"). As discussed below, the relief sought in both the CTIA Petitions and the Sprint Petition is an affirmation and clarification of existing rules and the resolution of a controversy under existing law – not a rule change. Indeed, denial of the Petitions would more likely result in a modification of existing law. Accordingly, the notice provided in both cases is wholly sufficient under APA requirements and the relief sought should be granted.

This letter is confined to the legal issue of notice and compliance with the APA. However, Sprint continues to encourage the Commission to grant the pending Petitions on legal and policy grounds, as more fully set forth in the various comments and *ex parte* filings already made in these dockets.

Background

On January 23, 2003, CTIA filed a petition for declaratory ruling regarding the obligations of ILECs under the existing local number portability ("LNP") rules when porting from and to wireless carriers.¹ The Wireless and Wireline Bureaus issued a *Public Notice*, and this *Public Notice* was thereafter published in the Federal Register,² even though the APA does not require such publication for declaratory ruling petitions.³ On May 13, 2003, CTIA filed a further petition for declaratory ruling raising several additional issues and once again a *Public Notice* was issued and published in the Federal Register.⁴ Comments and reply comments have been submitted as well as numerous *ex parte* filings, and all issues have been briefed before the Commission.

On May 9, 2002, Sprint filed a petition for declaratory ruling regarding ILEC routing and rating of mobile-to-land traffic. The Wireless and Wireline Bureaus issued a *Public Notice*,⁵ and this *Public Notice* was published in the Federal Register.⁶ Extensive comments, reply comments and *ex parte* filings have also been made in this docket, and ILECs acknowledge that this petition "is certainly ripe for Commission decision and the Commission should decide it."⁷

The question has now been asked whether the recent appellate court decision, *Sprint v. FCC*, 315 F.3d 369 (D.C. Cir. 2003), precludes the FCC from rendering declaratory rulings on these petitions and requires the FCC to issue a new notice of proposed rulemaking ("NPRM") before granting the relief CTIA and Sprint seek. Sprint demonstrates in Part IV below that this court decision actually supports action on the Sprint rating/routing petition as well as the major-

¹ See *Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association*, In the Matter of Telephone Number Portability, CC Docket 95-116 (Jan. 23, 2003).

² See *FCC*, Telephone Number Portability, CC Docket 95-116, 68 Fed. Reg. 7323 (Feb. 13, 2003).

³ See, e.g., *Sanyo Manufacturing Corp.*, 3 FCC Rcd 1864 ¶ 6 (1988), citing *Chisholm v. FCC*, 538 F.2d 349, 365 (D.C. Cir.), cert. denied, 429 U.S. 890 (1976). Although the FCC was not required to publish its public notice in the Federal Register, this publication satisfied that APA content requirements for rulemaking proceedings, because the Public Notice contained "a description of the subjects and issues involved." 5 U.S.C. § 553(b)(3).

⁴ See *Petition for Declaratory ruling of the Cellular Telecommunications & Internet Association*, In the Matter of Telephone Number Portability, CC Docket No. 95-116 (May 13, 2003), summarized in 68 Fed. Reg. 3457 (June 10, 2003).

⁵ See *Public Notice*, Comment Sought on Sprint Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs, CC Docket No. 01-92, DA 02-1740 (July 18, 2002).

⁶ See *FCC*, Routing and Rating of Traffic by Incumbent Local Exchange Carriers (ILECs), CC Docket No. 01-92, 67 Fed. Reg. 51581 (Aug. 8, 2002).

⁷ Verizon Opposition, CC Docket No. 95-116, at 11 (June 13, 2003). See also BellSouth Comments, CC Docket No. 95-116, at 11 (June 13, 2003) ("BellSouth agrees that this [Sprint] issue must be resolved."); CTIA Declaratory Ruling Petition, CC Docket No. 95-116, at 24 (May 13, 2003) ("The Commission should promptly resolve the intercarrier dispute between BellSouth and Sprint.").

ity of issues raised in the CTIA petition.⁸ Moreover, and by contrast, a ruling purporting to relieve ILECs from their obligations under Sections 251(a), 251(b)(2) and 251(b)(5) would be in direct violation of the Communications Act and the FCC's implementing regulations.

It is important to emphasize from the outset that courts have long held that agencies possess broad discretion in deciding whether to proceed *via* a rulemaking or declaratory ruling.⁹ This is true "regardless of whether the decision may affect agency policy and have general prospective application."¹⁰

Sprint demonstrates below that not only is a rulemaking unnecessary to grant these petitions, but also that the FCC would be required to complete a *new* rulemaking before it could deny the relief Sprint and CTIA seek, because the petitions ask only that the FCC enforce existing statutory and regulatory law.

I. The Administrative Procedures Act Authorizes the FCC to Grant a Declaratory Ruling to Terminate a Controversy

The APA expressly authorizes agencies like the FCC to "issue a declaratory order to terminate a controversy or remove uncertainty," with Congress further specifying that declaratory order have "like effect as in the case of other orders."¹¹ The FCC's own rules further recognize that the FCC may issue a declaratory ruling terminating a controversy or removing uncertainty.¹² In this regard, courts have expressly held that "an interpretation of . . . regulations by . . . declaratory ruling . . . [is] well within the scope of the familiar power of an agency to interpret the regulations within the framework of an adjudicatory proceeding."¹³ Declaratory ruling proceedings, like proceedings involving an "interpretative rule,"¹⁴ are exempt from the APA's no-

⁸ CTIA raises several issues in its two petitions and Sprint does not attempt to discuss each of them here. However, with respect to the issues most critical to implementation of LNP – the rate center issue, interconnection obligations and the alleged requirement of direct connection – CTIA seeks only the enforcement of existing obligations and not a change of an existing rule.

⁹ See, e.g., *NLRB v. Bell Aerospace*, 416 U.S. 267, 291-95 (1974); *SEC v. Chenery*, 332 U.S. 194, 203 (1947); *RTC Transportation v. ICC*, 731 F.2d 1502, 1505 (11th Cir. 1984); *Viacom International v. FCC*, 672 F.2d 1034, 1042 (D.C. Cir. 1982); *New York State Comm'n v. FCC*, 669 F.2d 58, 62 (2d Cir. 1982); *25 Large Oceangoing Cargo Ships*, 5 FCC Red 594, 595 ¶ 13 (1990).

¹⁰ *New York State Comm'n v. FCC*, 749 F.2d 804, 815 (D.C. Cir. 1984), quoting *Chisholm v. FCC*, 538 F.2d 349, 365 (D.C. Cir.), cert. denied, 429 U.S. 890 (1976).

¹¹ 5 U.S.C. § 554(e).

¹² 47 C.F.R. § 1.2.

¹³ *British Caledonian Airways v. CAB*, 584 F.2d 982, 993 (D.C. Cir. 1978), quoting *Trans International Airlines v. CAB*, 432 F.2d 697, 612 n.9 (D.C. Cir. 1970).

¹⁴ See 5 U.S.C. § 553(b)(3)(A).

tice and comment rulemaking requirements.¹⁵ Thus, it was not necessary for the Bureaus to publish notice of either CTIA or Sprint's petitions in the Federal Register.

The numerous comments submitted in response to these petitions confirm that there is a major controversy between wireless carriers and incumbent LECs (and rural ILECs in particular) over whether ILECs may, under existing law, refuse to honor the rating and routing points designated by wireless carriers for their telephone numbers (NXX codes or thousands blocks) and whether such carriers must satisfy their statutory porting obligations. As Sprint's recent *ex parte* filing regarding the CTIA petition demonstrates, carriers across the country are currently denying their obligation to implement number portability with wireless carriers.¹⁶ Likewise, the controversy which prompted Sprint's original rating and routing petition, the ability to establish local numbers within the Northeast Telephone Company's exchange area, remains unresolved.

Congress designed the declaratory ruling procedure precisely to "terminate a controversy or remove uncertainty."¹⁷ As courts have noted, the "only result [of commencing a new rule-making now] would be delay while the Commission accomplished the same objective under a different label. Such empty formality is not required where the record demonstrates that the agency in fact has had the benefit of petitioners' comments."¹⁸ Action is needed to ensure that consumer choice, and FCC expectations regarding LNP are met in November.

II. A New Rulemaking Is Not Required Because Sprint and CTIA Seek Confirmation of Existing Law; In Fact, the FCC May Not Deny these Petitions without Completing a New Rulemaking

It is axiomatic that an NPRM published in the Federal Register is necessary before an agency may change existing rules that were adopted in an APA rulemaking proceeding. *See* Part IV *infra*. Here, however, both the CTIA and Sprint's petitions ask the FCC only to confirm *existing* legal requirements. With respect to the CTIA Petitions:

- The Communications Act imposes an affirmative obligation on all local exchange carriers ("LECs") "to provide, to the extent technically feasible, number portability in accordance with the requirements prescribed by the Commission."¹⁹
- The Commission has adopted rules establishing the requirements for number portability, and nothing contained in these rules permits LECs to refuse porting

¹⁵ See, e.g., *Sanyo Manufacturing Corp.*, 3 FCC Rcd 1864 ¶ 6 (1988), citing *Chisholm v. FCC*, 538 F.2d 349, 365 (D.C. Cir.), *cert. denied*, 429 U.S. 890 (1976).

¹⁶ Sprint Corporation *Ex Parte* Letter, CC Docket No. 95-116 (Aug. 8, 2003).

¹⁷ 5 U.S.C. § 554(e).

¹⁸ *Chisholm v. FCC*, 538 F.2d 349, 364-65 (D.C. Cir.), *cert. denied*, 429 U.S. 890 (1976).

¹⁹ 47 U.S.C. §251(b)(2).

based upon the existence of numbers in a rate center or the existence of an interconnection agreement.²⁰

The CTIA Petitions merely seek the nondiscriminatory application of existing rules and industry guidelines. CTIA does not seek modification of existing rules regarding rate centers, interconnection agreements or points of presence. To the contrary, CTIA seeks enforcement of existing law. Indeed, if the Commission were to find that wireless carriers must first establish numbering resources in each rate center from which it receives a port, or establish an interconnection agreement addressing compensation issues, the Commission would in effect be establishing new requirements and obligations on wireless carriers before they could seek portability. Such a finding would not only amount to rule change but would be in direct violation of the Act and the FCC's implementing rules and orders.

With respect to Sprint's Petition:

- FCC rules specify that a LEC "must provide the type of interconnection reasonably requested by a mobile services licensee or carrier,"²¹ and the FCC long ago held that LECs must provide Type 2 interconnection upon request.²² With Type 2 interconnection, a wireless carrier's routing point is located at the LATA tandem switch, while its rating points are located at various local calling areas within the LATA.²³ The FCC has thus already recognized that wireless carriers can have different rating and routing points – the very point Sprint asks the FCC to reaffirm in its declaratory ruling petition.
- The Communications Act permits a wireless carrier to interconnect indirectly with other carriers.²⁴ The FCC has, moreover, interpreted the Act to mean that wireless and other competitive carriers need establish only "one POI per LATA"²⁵ – meaning that there may be only one routing point in the LATA. The FCC has also recognized that carriers "typically need numbering resources in multiple rate cen-

²⁰ See 47 C.F.R. § 52.2 *et seq.*

²¹ 47 C.F.R. § 20.11(a). See also *Bowles v. United Telephone*, 12 FCC Rcd 9840, 9849 ¶ 15 (1997) ("LEC is obligated to provide a CMRS provider with the interconnection of its choice upon its request."); *Third Radio Common Carrier Order*, 4 FCC Rcd 2369, 2376 ¶ 41 (1989).

²² See FCC Policy Statement on Interconnection of Cellular Systems, 59 R.R.2d 1275 ¶ 2 (1986), *aff'd* 2 FCC Rcd 2910 (1987) and 4 FCC Rcd 2369 (1989).

²³ See *Notes on the Network*, TR-NPL-000275, Section 16, at 16-2, § 2.03 (1986) ("Through [Type 2 interconnection], the [wireless carrier] can establish intra-LATA connections to BOC end offices connected to the tandem and to other carriers interconnected through the tandem.") (emphasis added).

²⁴ See 47 U.S.C. § 251(a)(1).

²⁵ *Unified Inter-carrier Compensation Regime*, 16 FCC Rcd 9610, 9634 ¶ 72 (2001). See also *Virginia Arbitration Order*, 17 FCC Rcd 27039 at ¶ 52 (2002).

ters to establish to establish a footprint in a particular geographic area,”²⁶ – meaning that carriers will have multiple rating points in a LATA. Thus, FCC has again recognized that wireless carriers may have a routing point that is different from their rating points – the very point Sprint asks the FCC to reaffirm in its declaratory ruling petition.

- FCC rules require the administration of telephone numbers pursuant to industry guidelines.²⁷ Industry guidelines acknowledge that carriers provide the routing and rating points for their telephone numbers and that the routing and rating points may be different²⁸ – the very point Sprint asks the FCC to reaffirm in its declaratory ruling petition.

To deny Sprint’s petition, the FCC would have to hold that wireless carriers must always have the same routing and rating points for their telephone numbers – a holding that would necessarily require the Commission to amend its existing rules and long-standing interpretation of both the Act and its rules. Sprint submits that the FCC cannot deny the Sprint petition without first completing a new rulemaking that changes its existing rules.

III. With Respect to the Sprint Petition, the FCC Also Has an Option to Enter a Discrete Order in Its Pending Docket 01-92 Rulemaking Proceeding

The Wireless and Wireline Bureaus have noted that the “Sprint Petition and BellSouth’s Opposition raise interconnection and intercarrier compensation issues under consideration in CC Docket No. 01, *Developing a Unified Intercarrier Compensation Regime*, 66 FR 28410, May 23, 2001).”²⁹ The Bureaus have therefore directed parties to “file their pleadings in CC Docket No. 01-92,” stating that the Sprint “petition and other pleadings will be incorporated into CC Docket No. 01-92.”³⁰

The Docket 01-92 rulemaking is a massive proceeding, touching virtually all aspects of intercarrier interconnection and compensation. The APA does not require agencies to complete rulemakings in a single order addressing all the issues raised in the NPRM. To the contrary, the FCC possesses the flexibility to address different issues in different orders, even though the issues may have all been raised in a single NPRM. In this regard, courts have noted “the broad discretion with which Congress has invested the Commission to adopt whatever procedures will

²⁶ *Second NRO Order*, 16 FCC Rcd 306, 366 ¶ 114 (2002). *See also First NRO Order*, 15 FCC Rcd 7574, 7577 n.2 (2000) (“A carrier must obtain a central office code for each rate center in which it provides service in a given area code.”).

²⁷ *See* 47 C.F.R. § 52.15(d).

²⁸ *See* Industry Numbering Committee, Central Office Code Assignment Guidelines at §§ 6.2.1, 6.2.2.

²⁹ *See Public Notice*, Routing and Rating of Traffic by Incumbent Local Exchange Carriers (ILECs), CC Docket No. 01-92, 67 Fed. Reg. at 51582 (Aug. 8, 2002).

³⁰ *Id.*

best conduce to the proper dispatch of business and to the ends of justice.”³¹ Thus, rather than issue the declaratory order that Sprint has requested, the FCC could alternatively grant the requested relief by entering a report and order in its CC Docket No. 01-92 rulemaking proceeding.³²

This being said, however, action should not be further delayed pending resolution of all the issues raised in the *Intercarrier Compensation* docket. The Sprint Petition has been fully briefed and is ripe for resolution now, as many ILECs and other commenters acknowledge.³³

IV. Sprint v. FCC, 315 F.3d 369 (D.C. Cir. 2003) Confirms That the FCC Need Not Commence a New Rulemaking Before Acting on the CTIA or Sprint Rating/Routing Petitions

The recent court decision involving payphone compensation, *Sprint v. FCC*, 315 F.3d 369 (D.C. Cir. 2003), confirms that the FCC need not commence a new rulemaking before acting on the CTIA or Sprint declaratory ruling petitions.

In its *First Payphone Reconsideration Order*,³⁴ the FCC ruled that that the “facilities-based” interexchange carrier (“IXC”) should compensate the payphone owner for toll calls originated on the payphone. In the *Second Payphone Reconsideration Order*,³⁵ the FCC “modif[ied] our rules to require the first” IXC to compensate the payphone owner.

The FCC did not adopt its *Second Payphone Reconsideration Order* in response to a reconsideration petition, nor did the FCC issue a new NPRM. Instead, it adopted its *Second Payphone Reconsideration Order* in response to a clarification petition filed by a coalition of payphone owners. This petition complained that payphone owners were not being adequately compensated under the arrangements adopted in the *First Payphone Reconsideration Order*, and it urged that the FCC require the IXC identified by the Carrier Identification Code (“CIC”) to compensate the payphone owner. The FCC requested comment on the coalition petition, but it did not publish this public notice in the Federal Register and the revised rules eventually adopted in the *Second Payphone Reconsideration Order* were different than what the coalition petition had requested (with the FCC specifically rejecting the CIC solution that had been proposed). In

³¹ *National Association of Broadcasters v. FCC*, 740 F.2d 1190, 1221 (D.C. Cir. 1984)(supporting citations omitted).

³² Because Sprint’s petition seeks reaffirmation and enforcement of existing law, it may be more appropriate to enter a declaratory order rather than a report and order in Docket No. 01-92, because it would appear that the FCC can achieve its objective for this rulemaking – develop a unified intercarrier compensation regime – only by having a vision of how all intercarrier interconnection should be accomplished.

³³ See note 7 *supra*.

³⁴ *First Payphone Reconsideration Order*, 11 FCC Rcd 10893 (1996), *aff’d in part, rev’d in part on other grounds*, *Illinois Public Telecommunications Ass’n v. FCC*, 117 F.3d 555 (D.C. Cir. 1997).

³⁵ *Second Payphone Reconsideration Order*, 16 FCC Rcd 8098 ¶ 1 (2001).

Sprint v. FCC, the D.C. Circuit held that the FCC had “failed to provide adequate notice and opportunity to comment” and thus contravened the requirements of the APA.³⁶ In other words, the Court held only that the FCC may not change a rule adopted in a rulemaking proceeding without commencing a new rulemaking proceeding that complies with APA requirements.

Importantly, the D.C. Circuit reaffirmed in *Sprint* that the FCC may continue to issue declaratory rulings to clarify or enforce existing law. The Court stated:

Underlying these general principles is a distinction between rulemaking and clarification of an existing rule. Whereas a clarification may be embodied in an interpretative rule that is exempt from notice and comment requirements, new rules that work substantive changes in prior regulations are subject to the APA’s procedures. Thus, the court described as “a maxim of administrative law” the proposition that, “if a second rule repudiates or is irreconcilable with [a prior legislative rule], the second rule must be an amendment of the first; and, of course, an amendment to a legislative rule must itself be legislative.”³⁷

To illustrate this distinction, the Court specifically noted that in 1998 the Bureau had properly interpreted and clarified the FCC’s *First Payphone Reconsideration Order*, even though the Bureau did not issue a NPRM and did not publish its Public Notice in the Federal Register.³⁸

Sprint in its declaratory ruling petition does not ask the FCC to repudiate or change any existing FCC requirement. As noted above, *Sprint* seeks only to confirm and enforce existing law. Similarly, CTIA’s petitions regarding the application of rate center porting requirements, interconnection obligations and points of presence do not advocate a change of existing law, but only an affirmation of existing law. Although the FCC here has complied fully with the APA requirements for rulemaking proceedings in the *Sprint* petition (by publishing notice of the petition in the Federal Register and by seeking comment on the petition as part of a broader pending rulemaking), the fact remains that the FCC could have granted the *Sprint* petition even without following these procedures.

Conversely, as also demonstrated above, because it is the opponents of the CTIA and *Sprint* petitions that seek to change existing law, the Commission cannot deny these petitions without a new rulemaking proceeding that changes existing law. Indeed, denial of these Petitions may be in direct violation of the statutory obligations imposed on LECs under the Act.

The FCC has long used its declaratory ruling authority to clarify existing law regarding the interconnection obligations of LECs.³⁹ *Sprint* submits that in this instance, existing law re-

³⁶ *Sprint v. FCC*, 315 F.3d 369, 371 (D.C. Cir. 2003).

³⁷ *Id.* at 374 (internal citations omitted).

³⁸ *See id.* at 372 and 374.

³⁹ *See, e.g.*, FCC Policy Statement on Interconnection of Cellular Systems, 59 R.R.2d 1275 ¶ 2 (1986), *aff’d* 2 FCC Rcd 2910 (1987) and 4 FCC Rcd 2369 (1989). Indeed, courts have held that state preemption decisions involving interconnection issues are “appropriate for disposition by declaratory ruling.” *North Carolina Utilities Comm’n v. FCC*, 537 F.2d 787, 791 n.2 (4th Cir), *cert. denied*, 429 U.S.

garding ILEC interconnection obligations to wireless carriers is not ambiguous. Nevertheless, some ILECs have decided unilaterally that they will no longer comply with this law, and entry of the requested declaratory ruling is thus necessary "to terminate a controversy or remove uncertainty."⁴⁰ To confirm, the successful deployment of LNP is at issue.

Pursuant to Section 1.1206 of the Commission's *ex parte* rules, this letter is being electronically filed with the Secretary's office. Please associate this letter with the file in the above referenced matters.

Respectfully submitted,



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1027 (1976). If the FCC can lawfully utilize declaratory rulings for persons not subject to its regulatory authority, it certainly can use this procedure for telecommunications carriers subject to its jurisdiction.

⁴⁰ 5 U.S.C. § 554(e). See also 47 C.F.R. § 1.2.

Attachment 2



August 18, 2003

Via Electronic Mail Delivery

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Mr. John Muleta, Chief
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***Re: Written Ex Parte Communication
Wireless Local Number Portability Implementation
CC Docket No. 95-116***

Gentlemen:

Sprint Corporation, on behalf of its landline and wireless divisions ("Sprint"), submits this written *ex parte* in response to arguments advanced recently by Qwest Corporation ("Qwest").¹ As Sprint demonstrates below, the Commission cannot as a matter of law, and should not as a matter of policy, grant the relief Qwest seeks. There is no basis to delay intermodal porting for some time while a new rulemaking is conducted and concluded. Qwest's additional argument that wireless carriers are asking landline local exchange carriers ("LECs") to provide location portability should also be rejected.

I. The Commission Cannot Grant the Relief Qwest Seeks

Qwest asks the Commission to delay intermodal porting while the Commission conducts a new rulemaking proceeding to investigate certain issues that Qwest has identified.² The Commission cannot grant this relief as a matter of law.

¹ Qwest did not file comments (or replies) in response to CTIA's January 23, 2003 "rate center" petition. It did file comments (but not replies) in response to CTIA's May 13, 2002 "implementation issues" petition, but those comments were limited to a "single issue" (porting intervals) unrelated to the new issues Qwest has been advancing in recent weeks. Qwest Comments, CC Docket No. 95-116, at 1 (June 16, 2003). Qwest's injection of new issues and arguments at this date makes FCC decision-making more difficult.

² See Qwest Ex Parte Letter, CC Docket No. 95-116, at 2 (July 24, 2003) ("[I]ntermodal portability between wireline and wireless providers should be deferred until such time as the Commission has initiated a *Notice of Proposed Rulemaking* to further consider" issues Qwest newly raises.); Qwest Ex Parte Letter, CC Docket No. 95-116, at 2 (July 18, 2003) ("[T]he FCC should defer intermodal LNP implementation

Congress has imposed on “[e]ach local exchange carrier” the “duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.”³ Congress has defined number portability as the ability of customers “to retain, at the same location, existing telecommunications numbers . . . when switching from one telecommunications carrier to another.”⁴

It should be beyond dispute that Qwest is capable of providing LNP to wireless carriers; indeed, it is already providing LNP to landline telecommunications carriers. So long as Sprint PCS provides its services “at the same location” where a Qwest customer wanting to port receives his Qwest services and so long as Sprint PCS is LNP-capable, Qwest has the statutory duty to permit its customers to port numbers to Sprint PCS. Sprint PCS is a telecommunications carrier, and as the Commission recognized in its *First LNP Order*, LECs must – under statute – provide LNP to all telecommunications providers, including wireless providers:

Because the 1996 Act’s definition of number portability requires LECs to provide number portability when customers switch from any telecommunications carrier to any other, the statutory obligation of LECs to provide number portability runs to other telecommunications carriers. Because CMRS falls within the statutory definition of telecommunications service, CMRS carriers are telecommunications carriers under the 1996 Act. As a result, *LECs are obligated under the statute to provide number portability to customers seeking to switch to CMRS carriers.*⁵

Qwest’s statutory duty to provide LNP to wireless carriers exists independently of the Commission’s wireless LNP rule.⁶ By statute Qwest is required to permit its customers to port their numbers to wireless providers – so long as the provider is LNP-capable and capable of receiving ported numbers.⁷

until such time as the FCC has initiated a *Notice of Proposed Rulemaking* to weigh” certain issues Qwest raises.).

³ 47 U.S.C. § 251(b)(2).

⁴ 47 U.S.C. § 153(3).

⁵ *First LNP Order*, 11 FCC Rcd 8352, 8357 ¶ 8 (1996)(emphasis added).

⁶ See 47 C.F.R. § 52.31.

⁷ The FCC does not possess the authority to waive or suspend mandatory duties set forth in statutes. See, e.g., *MCI v. AT&T*, 512 U.S. 218 (1994). The FCC could exercise its Section 10 forbearance powers to relieve LECs of their statutory duty to provide LNP to wireless carriers. But given that such action would *limit* the competitive choices available to LEC customers, it is unlikely the FCC could find the presence of the statutory forbearance criteria. Sprint also notes that no LEC (including Qwest) has filed such a forbearance petition.

II. The Rulemaking Qwest Proposes Has No Purpose

Qwest asks the Commission to commence a new rulemaking to address the issues discussed below.⁸ The requested rulemaking is unnecessary.

1. Alleged Implications to Consumer. Qwest says a rulemaking is needed to consider the “implications” of intermodal portability “to the consumer.”⁹ According to Qwest, intermodal portability will result in “customer confusion” because it will “no longer [be] possible for a customer to properly use the NPA-NXX of the telephone number to determine whether the call will be local or toll.”¹⁰ Qwest further suggests it may face “billing problems” from intermodal porting because “calls to the ported telephone number *may* appear to the billing systems as local and not billed even though toll charges should apply to a call that is routed to a rate center outside the local calling area.”¹¹

These assertions are not accurate. All telephone numbers (landline and wireless) are “rated” to a particular incumbent LEC rate center, and the rate center association of a given number does not change when the number is ported from one carrier to another. Thus, if a call to a number was local before the port, it necessarily will remain local after the port. Conversely, if a call to a number was toll before the port, it will remain a toll call after the port.

Qwest states that an intermodal port will “result in a telephone number no longer being associated with a specific location.”¹² However, the physical location of a wireless customer and her mobile handset (to which the number is assigned) has never had any bearing on how LECs rate their land-to-mobile calls. LECs rate calls as local or toll by “analyz[ing] the rate center associated with the NPA/NXX of the calling and called parties,”¹³ and the rate center association of a number does not change when the number is ported. As a result, the manner in which Qwest bills the person calling the ported number will be the same as before the same number was ported.¹⁴

⁸ See note 2 *supra*.

⁹ Qwest July 24 Ex Parte Letter at 2.

¹⁰ *Ibid.*

¹¹ *Id.* at 2 (emphasis added).

¹² *Ibid.*

¹³ Qwest July 24 Ex Parte Letter at 4. The LEC convention of comparing the rate centers of the NPA-NXXs of the calling and called parties is used “industry-wide.” See *Virginia Arbitration Order*, 17 FCC Rcd 27039 at ¶ 301 (2002).

¹⁴ Qwest also cites to an ALTS concern about “the *potential* impact on billing systems as different telephone numbers within a single NXX code could become associated with different rate centers through ports within a wireless MTA.” Association for Local Telecommunications Services Reply Comments, CC Docket No. 95-115, at 3-4 (June 24, 2003)(emphasis added), *cited by* Qwest July 24 Ex Parte Letter at n.4. This ALTS concern is unfounded because no wireless carrier is proposing to change the rate center association of ported numbers; a ported number will always be rated according to the original rate center.

Thus, LNP generally, and intermodal porting in particular, has no impact on the way LECs rate calls as local or toll. Since rating remains consistent, intermodal porting will not cause customer confusion because nothing changes for customers when they call a ported, as opposed to non-ported number.

2. Alleged LEC Costs. Qwest says a rulemaking is needed to consider “the costs of [intermodal portability] implementation by incumbent LECs, CLECs, and cable telephony providers.”¹⁵ In fact, the costs a “porting-out” carrier like Qwest will incur to implement a port request are the same whether the “porting-in” carrier is a competitive LEC, a cable telephony provider or a wireless carrier. The technology the “porting-in” carrier uses in the provision of its services has no bearing on the costs the “porting-out” carrier incurs in porting the number.¹⁶

3. Alleged “Technical and Regulatory” Obstacles. According to Qwest, telephone numbers cannot be taken “outside the rate center” because of “unacceptable obstacles,” including “technical and regulatory obstacles [that] prohibit LECs from porting outside the rate center.”¹⁷ These Qwest allegations, never explained, cannot be correct.

Qwest and its predecessors have been routing land-to-mobile calls (including to its own wireless affiliate) for nearly 20 years. Although a wireless handset may be physically located anywhere within a wireless network at any given time (this is inherent to mobile service), Qwest has never faced “technical and regulatory obstacles” in routing and rating land-to-mobile calls. The mobility associated with a wireless handset (and the number assigned to the handset) does not impact how LECs route their land-to-mobile calls to wireless carriers.¹⁸ Whether a number is ported or not, a LEC such as Qwest merely has to route the call to the wireless carrier – in exactly the same way it always has – and to rate the call by reference to originating and terminating rate center – as it always has.

It is also notable that Qwest permits its own customers to take their telephone numbers “outside the rate center.” With its tariffed foreign exchange (“FX”) service, a Qwest customer

¹⁵ Qwest July 24 Ex Parte Letter at 2.

¹⁶ Sprint recognizes that LECs may incur incremental costs associated with wireless LNP (e.g., increased NPAC costs, additional testing costs) because LECs will be porting numbers to additional carriers and because the number of LEC customers interested in porting will presumably increase. However, the FCC has already adopted a LNP cost recovery mechanism for incumbent LECs, and if a LEC like Qwest believes its cost recovery plan requires adjustment, that LEC can petition the FCC to amend its cost recovery plan. LNP cost recovery has nothing to do with the technical feasibility of intermodal portability.

¹⁷ Qwest July 24 Ex Parte Letter at 1-3.

¹⁸ Wireless carriers maintain at least one point of interconnection (“POI”) in each LATA. LEC route their land-to-mobile calls to this POI regardless of the physical location of the wireless customer at the time of the call. Thus, if a wireless customer is across the country at the time of the call, the LEC still delivers the call to the wireless carrier in the originating LATA, and the wireless carrier assumes responsibility of delivering the call to its customer. These interconnection and call routing arrangements do not change if a wireless customer happens to use a ported, rather than a non-ported number.

Mr. William Maher, Chief
Mr. John Muleta, Chief
CC Docket No. 95-116
August 18, 2003
Page 5

can reside in one rate center and have a telephone number rated in another rate center.¹⁹ Thus, for example, a Qwest customer moving from one rate center to another can retain his existing telephone number and local calling area simply by subscribing to Qwest's FX service. Although the customer would be physically located in Rate Center X and although the customer's loop (and the telephone number associated with that loop) would be physically located in Rate Center X, the Qwest FX customer receives service as if he resided in Rate Center Y. Qwest's tariffed FX service demonstrates that there are no "technical and regulatory obstacles" that prohibit LECs from assigning numbers associated with loops "outside the rate center."

4. Alleged Competitive Inequalities. Qwest says that a rulemaking is necessary so the Commission can consider "competitive inequalities for LECs" from intermodal porting and that intermodal portability would "create a competitive inequity between service providers who have already implemented LNP."²⁰ Qwest does not, however, identify the alleged competitive inequality.

In fact, it is not possible for intermodal porting to cause competitive inequalities to carriers "who have already implemented LNP," because the Commission made clear in its *First LNP Order* that "LECs are obligated under the statute to provide number portability to customers seeking to switch to CMRS carriers."²¹ Hence, any competitive inequality that a LEC may perceive is statutory in origin. Further, the fact that wireless carriers are implementing LNP after LECs has nothing to do with competitive inequalities – as evidenced by the fact that Qwest wants to delay intermodal porting even further.²²

5. Expanding the Size of Rate Centers. Qwest finally says that a rulemaking is needed if the Commission "were to consider making the LATA or the NPA the relevant geographic area for numbering."²³ According to Qwest, enlarging rate center boundaries would have enormous implications for LECs, including upgrades to switch capacity, reconfiguration of trunks and switches, and major changes to operational support and billing systems.²⁴

The simple response is that no one has proposed that the Commission change in any way (much less enlarge) current rate center boundaries to accommodate wireless LNP. Consequently, the harms Qwest fears will not occur.

¹⁹ See Qwest Private Line Transport Services Tariff, COLO. PUC No. 19, at First Revised Sheet 31, § 5.2.6.A and Second revised Sheet 33, § 5.2.6.B.10 (effective August 1, 2003).

²⁰ Qwest July 24 Ex Part Letter at 2 and 5.

²¹ *First LNP Order*, 11 FCC Rcd 8352, 8357 ¶ 8 (1996).

²² The FCC decided that wireless carriers should deploy LNP after LECs because wireless carriers "face[d] technical burdens unique to the provision of seamless roaming on their networks, and standards and protocols will have to be developed to overcome these difficulties." *Id.* at 8439 ¶ 164.

²³ Qwest July 24 Ex Parte Letter at 4.

²⁴ *Id.* at 4-5.

Also baseless is Qwest's allegation that "wireless providers . . . [are] encouraging the Commission to ignore the rate center boundary altogether."²⁵ As noted above, the rate center association of a ported number does not change; the telephone number always remains assigned to the original rate center.

III. Wireless Carriers Are Not Asking LECs to Provide Location Portability

In recent *ex parte* presentations, Qwest has begun asserting that wireless carriers seek to "broaden the definition of LNP" by expanding LNP "beyond the wireline rate center" and that this expansion "is equivalent to Location Portability."²⁶ More recently, Qwest has claimed that the way wireless industry wants define LNP goes "well beyond location portability."²⁷ These assertions are not correct.

The Act defines number portability as the ability of customers "to retain, *at the same location*, existing telecommunications numbers . . . when switching from one telecommunications carrier to another."²⁸ This is the portability wireless carriers seek (and which the Act requires). If, for example, a customer currently served by Qwest wants to port his number to Sprint PCS, that customer has a right to port his number to Sprint PCS – so long as Sprint PCS provides services "at the same location" where the customer had received his services from Qwest. As the Commission has previously recognized, "[w]e regard switching among wireless service providers and broadband CMRS providers . . . as changing service providers" and thus falling within the category of service provider portability.²⁹

In contrast, wireless carriers are *not* asking LECs to provide location portability, which FCC rules define as the ability of customers "to retain existing telecommunications numbers . . . *when moving from one physical location to another*."³⁰ Location portability does not generally involve any change in service providers. The capability would be invoked when a customer moves from one location to another, with the customer wanting to keep both his telephone number and service provider.

In addition, location portability involves the re-association, or reassignment, of a telephone number from the original rate center to another.³¹ Location portability, unlike service

²⁵ *Id.* at n.1 and 3.

²⁶ See Qwest July 24 Ex Parte Letter at 5; Qwest July 18 Ex Parte Letter at 1.

²⁷ Qwest July 24 Ex Parte Letter at 3.

²⁸ 47 U.S.C. § 153(3)(emphasis added).

²⁹ *First LNP Order*, 11 FCC Rcd at 8443 ¶ 173.

³⁰ 47 C.F.R. § 52.21(h)(i)(emphasis added).

³¹ For example, a customer might want to retain her number when moving from Washington, D.C. to Boston. Under location portability, the customer's D.C. number (containing a 202 NPA) would become associated with a Boston rate center, and calls to this D.C. number would become toll to callers in D.C. but local to callers in Boston. Sprint agrees that this arrangement, true location portability, would cause

provider portability, thus changes the way that calls to the number are rated as local or toll. Qwest is therefore wrong in suggesting that wireless carriers want the Commission to "expand the current LNP rules to require location portability."³²

Qwest has told the Commission that "[w]ireless carriers must have a *presence* in every wireline rate center from which they wish to port a number."³³ Sprint agrees that a wireless carrier must provide its services at a LEC customer's location before the customer can port his number to a wireless carrier.³⁴ If a wireless carrier does not provide service where a current Qwest customer receives its Qwest services (*i.e.*, "at the same location"), then Qwest is under no duty to port the number to the wireless carrier because this would not constitute number portability as defined in the Act. As a practical matter, however – and to state the obvious – few Qwest customers would be interested in canceling their Qwest service and porting their number to a wireless carrier if that wireless carrier did not provide service at the customer's location.

IV. The "Port Back" Issue

During Sprint and T-Mobile meetings with the Commission on August 7, 2003, Staff inquired about a "port back" scenario whereby a LEC customer ports his number to a wireless carrier, the customer then moves out of the original rate center and changes his billing address, after which the customer wants to port back to the LEC. The Staff related LEC concerns that they would be placed at a competitive disadvantage in winning back the customer because calls to that customer's number would be rated differently than calls to other customers living within that same rate center in which he now lives (since the customer's number stays associated with the original rate center).

At the outset, Sprint does not believe that the scenario outlined will occur with much frequency.³⁵ Indeed, unless the customer moves outside the original local calling area (not just the original rate center), the "problem" will not occur.

customer confusion, but this arrangement is not present with service provider portability because the rate center association of the ported number does not change.

³² Qwest July 24 Ex Parte Letter at 2.

³³ Qwest June 19 Ex Parte Handout at 4 (emphasis added).

³⁴ Rural LECs have argued that wireless carriers must not only provide service in the rate center, but must also meet other conditions (*e.g.*, telephone numbers rated in the rate center, a direct connection to the ILEC switch serving the rate center). Congress did not condition an ILEC's LNP duty on competitive carriers having a particular interconnection arrangement. In addition, the FCC would have to change its existing interconnection rules before it could impose these additional requirements on wireless and other carriers.

³⁵ The LEC example requires the presence of four different variables: (1) a LEC-to-CMRS port; (2) the customer then moves outside the rate center and outside the local calling area; (3) upon moving, the customer decides to retain her telephone number even though neighbors in the new area would incur toll charges in calling the handset; and (4) the customer then decides to port back to the LEC. As noted, few wireless customers retain their wireless number upon moving to a different local calling area. In addition,

Further, it is important to understand that a rate center and a local calling area often are not identical. An incumbent LEC may have several rate centers within a single local calling area.³⁶ Thus, if a customer moves from one rate center to another when both rate centers are located in the same local calling area, the local calling area for the customer will remain the same despite the customer's change in address (and change in rate centers).

In this regard, most wireless customers retain their telephone number upon moving *only* if the new location is in the same local calling area as the original rate center. The vast majority of mobile customers obtain a different telephone number if they move any significant distance from their original location, because if they do not change their number, calls from friends, family and colleagues in the new location would incur toll charges in calling the wireless number.³⁷

Importantly, there is no "competitive inequality" even if a wireless customer decides to retain his wireless number upon moving to a different local calling area. With service provider portability, the ported number always remains associated with, or "rated" to, the original rate center. Thus, if a customer, whether landline or wireless, chooses to retain his number upon moving to a different local calling area (and assuming the customer's service provider is willing to offer this feature), it is the customer that chooses to have a different local calling area than other persons located in the new calling area. The situation described – a moving customer has a different local calling area than other persons in his new neighborhood – applies whether a LEC or wireless carrier serves the customer.

V. Conclusion

Sprint offers both fixed landline and mobile wireless services – as does Qwest. However, Sprint does not agree with Qwest's identified intermodal porting concerns and does not agree that there is technical infeasibility presented. Qwest has a statutory obligation to provide service provider portability to CMRS carriers that are LNP-capable.

to the extent there are such customers willing to retain a number in a different local calling area, Sprint suspects that few of these customers will then abandon mobile service for fixed service.

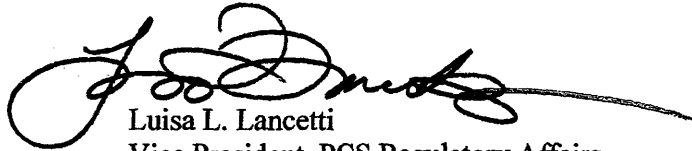
³⁶ As a result, wireless carriers, while obtaining numbers in every local calling area where they provide service, often do not obtain numbers in every LEC rate center. This wireless carrier practice conserves millions of scarce telephone numbers. See Sprint Ex Parte Letter, CC Docket No. 95-115, at 6 (Aug. 8, 2003) (Sprint would be compelled to obtain over nine million additional numbers if required to obtain a thousands block in each LEC rate center where it provides its wireless services).

³⁷ Assume a mobile customer who recently graduated from high school in New York City and that is attending college in Washington, D.C. If this person retains his New York number, the parents and friends who remain in the City could call the student without incurring toll charges. However, new friends and acquaintances would incur toll charges, even though the student may be located across the hall in a dorm, because the student has a New York telephone number (e.g., containing a 212-NPA). On the other hand, if the student switches to a D.C. number (with a 202 rather than a 212 NPA), new friends can call the student locally while parents and others in New York City would incur toll calls (just as if they called the student at his dorm room's landline telephone number).

Mr. William Maher, Chief
Mr. John Muleta, Chief
CC Docket No. 95-116
August 18, 2003
Page 9

Pursuant to Section 1.1206(b)(1) of the Commission's rules, one copy of this letter is being filed with the Secretary's office for filing in CC Docket No. 95-116.

Respectfully submitted,



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Attachment 3



August 8, 2003

Via Electronic Mail Delivery

Mr. William Maher, Chief
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Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Mr. John Muleta, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
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Re: *Written Ex Parte Communication*
Wireless Local Number Portability Implementation
CC Docket No. 95-116

Gentlemen:

Pending before the Commission are a number of outstanding implementation issues that have arisen in connection with wireless local number portability ("WLNP"). As reflected by the comments filed in response to the two pending petitions submitted by the Cellular Telecommunications & Internet Association ("CTIA"),¹ there exist significant areas of controversy, especially in the context of ports by customers of landline carriers who will seek to transfer their number to a wireless carrier ("land-to-mobile ports"). The fundamental problem is that different carriers interpret very differently the same LNP legal requirements.

It is important for the Commission to understand that the widespread controversy within industry is already having significant business consequences. For example, Sprint's wireless division, Sprint PCS, has sent *bona fide requests* ("BFRs") to over 90 wireless carriers and over 500 landline carriers seeking LNP. Many of the carriers responding to these BFRs have either refused to honor the BFR or have announced unilaterally they will not honor the request unless Sprint agrees to take some action unrelated to LNP (*e.g.*, obtain additional wireless numbers that are not needed, interconnect directly even though such a connection is not required and cannot be cost-justified given the traffic volumes exchanged).

¹ See *Public Notice*, Comment Sought on CTIA Petition for Declaratory Ruling That Wireline Carriers Must Provide Portability to Wireless Carriers Operating Within Their Service Areas, CC Docket No. 95-116, DA 03-211 (Jan. 27, 2003), *summarized in* 68 Fed. Reg. 7323 (Feb. 13, 2003); *Public Notice*, Comment Sought on CTIA Petition for Declaratory Ruling on Local Number Portability Implementation Issues, CC Docket No. 95-116, DA 03-1753 (May 22, 2003), *summarized in* 68 Fed. Reg. 34547 (June 10, 2003).

Mr. William Maher, Chief
Mr. John Muleta, Chief
CC Docket No. 95-116
August 8, 2003
Page 2

American consumers will expect that, on November 24, 2003, they will be able to port their numbers to or from a wireless carrier. Sprint submits there will be enormous customer confusion and frustration – if not anger – if customers cannot port their telephone number when such porting is supposed to be available.

Congress has empowered the Commission to “issue a declaratory order to terminate a controversy or remove uncertainty.”² The comments filed in response to the pending CTIA petitions confirm that there exist significant controversies that a declaratory ruling would terminate. As a practical matter, the widespread availability of LNP will occur *only* if the Commission ends the ongoing controversies by removing the identified ambiguities surrounding existing LNP requirements.

Sprint urges the Commission to act expeditiously. Time is of the essence, given that the WLNP start date is less than four months away and given that industry will need some time to “build to” Commission clarification of the issues. Ultimately, it will be American consumers who will lose if they cannot port their numbers when LNP is made available. The FCC’s promise of LNP – to enhance competition between the landline and wireline industries” – will not be realized without timely Commission clarification of LNP requirements.

As discussed below, Sprint asks that the Commission promptly make the following rulings to eliminate the existing controversies that exist:

- The FCC should reaffirm universal porting by granting the CTIA rate center petition;
- The FCC should affirm that LEC requirements for direct connection or point of presence are unnecessary for LNP (and would require a change in existing interconnection rules);
- The FCC should confirm that the industry-developed BFR form constitutes a valid LNP BRF; and
- The FCC should confirm that the Section 252 process is not appropriate for LEC-CMRS ports being implemented per FCC rules.

Sprint’s PCS and local exchange divisions concur in this request.

One preliminary observation is necessary. A group of ILEC trade associations recently told Senator McCain that WLNP will “dramatically change . . . the conventional routing and rating of calls” and this will result in “increased toll charges” to consumers.³ Sprint, which also operates as an ILEC in numerous states, can attest that these statements are not true. In fact:

² 5 U.S.C. § 554(e). *See also* 47 C.F.R. § 1.3 (“The Commission may, in accordance with section 5(d) of the Administrative Procedure Act, on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty.”).

³ Letter from United States Telecom Association (USTA), Independent Telephone and Telecommunications Alliance, and Western Alliance, to the Hon. John McCain, U.S. Senator, at 2 (July 22, 2003).

- WLNP will not change the rating of calls. If a call to a particular number is local today, it will remain local after the number is ported.⁴ There will be no “increased toll charges” to consumers when WLNP becomes available.
- WLNP does not change the existing interconnection rules whereby the originating carrier (LEC or CMRS) is responsible for delivering its traffic to the terminating carrier. Calls to ported numbers will be handled just like calls to non-porting numbers of other carriers. Any increased costs that certain LECs may encounter are due to competition and interconnection rules, not WLNP.

I. Issues That Impact the Availability of Land-to-Mobile Ports on November 24, 2003

Under FCC rules, landline customers should be able to port their numbers on November 24, 2003 to those wireless carriers that have timely submitted a BFR to the serving local exchange carrier (“LEC”). Sprint below discusses two issues that threaten the availability of land-to-mobile porting in November.

A. The Adequacy of Wireless Carrier BFRs

The Commission recently reaffirmed that “all local exchange carriers and covered CMRS carriers in the 100 largest MSAs are required to provide LNP upon receipt of a specific request for the provision of LNP by another carrier.”⁵ The Commission also identified the requirements for a *bona fide* request (“BFR”):

Requesting telecommunications carriers must [1] specifically request portability, [2] identify the discrete geographic area covered by the request, and [3] provide a tentative date by which the carrier expects to utilize number portability to port prospective customers.⁶

The BFRs Sprint PCS sent to other carriers clearly covered these three requirements. Nevertheless, many of the responses Sprint received rejected the BFR because it supposedly was insufficient or lacked specificity. For example, one ILEC told Sprint in response to its BFR that “[a]t the outset, we note that Sprint PCS’s requests are not complete and therefore they do not, in our opinion, constitute a BFR.”⁷

Sprint used for its BFRs the “Bonafide Request Form (BFR)” form developed by the industry – specifically, the Wireless Number Portability Operations (“WNPO”), a copy of which is attached as Appendix B. The form was subsequently approved by the Local Number Portability

⁴ As the Wireline Bureau has recognized, under the convention used “industry-wide,” carriers rate calls as local or toll by “comparing the originating and terminating NPA-NXX codes.” *Virginia Arbitration Order*, 17 FCC Rcd 27039 at ¶ 301 (2002).

⁵ *Fourth LNP Order*, CC Docket No. 95-115, FCC 03-126, at ¶ 8 (June 18, 2003). The FCC also reaffirmed that “carriers operating outside of the 100 largest MSAs must also provide LNP within six months of receiving a request from another carrier.” *Id.* at n.17.

⁶ *Id.* at ¶ 10.

⁷ This and other quoted material within this letter are taken from carrier responses to Sprint’s BFRs. See Appendix A.

Mr. William Maher, Chief
Mr. John Muleta, Chief
CC Docket No. 95-116
August 8, 2003
Page 4

Administration Working Group ("LNPA-WG"), which reports to the North American Numbering Council ("NANC"). As is apparent on review, this form contains all the information that the Commission has determined is necessary for a BFR

Sprint asks the Commission to review this industry form and confirm that it fulfills the requirements contained in the *Fourth LNP Order*. Such confirmation would allow Sprint to move forward with carriers who have refused to work with Sprint to implement WLNP on this basis.

B. The Need for a State-Approved Interconnection Contract

Many carriers interconnect with each other indirectly (*via* a transit carrier) and they operate without an interconnection contract. Interconnection contracts are often not necessary when carriers interconnect indirectly, and carriers interconnecting indirectly rarely have a contract because the costs of negotiating, executing and securing approval often exceeds the value of the traffic the two carriers exchange with each other. Nevertheless, in response to Sprint's BFR, many carriers have refused to move forward until an interconnection agreement is negotiated and, if necessary, arbitrated before a state commission. For example, several LECs provided the following response to Sprint's BFR:

[L]ocal number portability is a concept that under 47 U.S.C. 251 involves the exchange of traffic. This means that a necessary precursor to acceptance of a request for LNP is that a traffic exchange agreement must be entered into between the companies involved. Therefore, we cannot treat your request as a BFR until after the traffic exchange agreement has been executed.⁸

Similarly, many LECs have stated the following in their BFR responses:

[Carrier] will satisfy its obligations for implementing LNP However, before LNP is turned up for service, our two companies will need to negotiate an agreement that addresses interconnection as well as operations issues.⁹

A state-approved interconnection contract makes no sense for WLNP. The Section 252 negotiation and approval process is also not required as a matter of law.¹⁰ LNP involves the exchange of a telephone number between carriers; call rating and routing for ported numbers is no different than for non-ported numbers. If two carriers determined before WLNP that they cannot cost justify the negotiation of an interconnection contract, it is unlikely that the situation will change after WLNP becomes available.¹¹ WLNP is being implemented pursuant to FCC rule, and it is inappropriate for states to interpret and enforce this rule; and the risk of conflicting decisions is high with 50 different state commissions.

⁸ See Appendix C.

⁹ See Appendix D.

¹⁰ See legal discussion in Sprint Comments, CC Docket No. 95-116, at 15-17 (June 13, 2003); Sprint Reply Comments, CC Docket No. 95-116, at 21-24 (June 24, 2003).

¹¹ It is possible, though unlikely, that WLNP will dramatically increase traffic flows between two carriers. If this does occur, either party could request commencement of interconnection negotiations.

The Commission can imagine a customer's frustration when he is told he cannot port his number because the two carriers have not yet executed a contract (or a contract has been executed but is pending state regulatory approval). And, the Commission can also imagine a customer's frustration when a sales representative scrambles in an attempt to determine whether the two involved carriers have executed a contract so the sales representatives can determine whether or not porting is available to that person.

In the end, interposing a new requirement for an interconnection contract as a condition to LNP would: significantly delay land-to-mobile porting as carriers execute and arbitrate contract terms; would permit ILECs to raise their rivals' costs; it would inhibit landline-wireless competition; and open the door for state commissions to adopt conflicting porting requirements, thereby undermining the "Federal regulatory framework" that Congress expected this Commission to establish for the wireless industry.

In fact, very little information must be exchanged in order for two carriers to port numbers between each other, as Sprint has previously explained.¹² In this regard, Sprint has begun to "jump start" the process by sending to all carriers it had earlier sent a BFR a letter containing its "profile" information so the carrier knows who to contact if one of its customers asks to port his number to Sprint. (See Appendix E, which includes an illustrative letter.) Sprint has also asked these carriers to reciprocate by sending their profile information to it.

So LNP can be implemented promptly and customer expectations addressed, the Commission should require all carriers to provide upon request their profile information, similar to that contained in Appendix E. In many instances, such Commission action would also render unnecessary the need for any written porting agreement between carriers, including a Service Level Porting Agreement ("SLA").

II. Issues That Impact How Many LEC Customers Can Port Their Numbers to Wireless Services

The Commission noted last month that even without WLNP, "consumers are substituting wireless service for traditional wireline communications" and that ILECs "have all been losing business to wireless substitution."¹³ Data from a recent customer survey reveal that "[w]ireline telephone companies face a real competitive threat to their primary fixed line business and need to develop strategies to counter the threat."¹⁴ It is thus understandable that rural ILECs in particular, which have faced little competition to date, may feel threatened by WLNP.¹⁵

¹² See Sprint Comments, CC Docket No. 95-116, at 17-19 (June 13, 2003).

¹³ *Eighth Annual CMRS Competition Report*, WT Docket No. 02-379, FCC 03-150 at ¶¶ 102-03 (July 14, 2003).

¹⁴ PriMetrica Press Release, *More Consumers Likely to Switch Completely from Existing Wireline to Wireless Phone Services; New Research Study from PriMetrica and Ernst & Young Confirms Significant Interest in "Wireless Substitution" or "Displacement"* (May 22, 2003), available at www.primetrica.com.

¹⁵ The FCC has noted that wireless carriers are beginning to compete with rural ILECs and that this new competition is "benefiting consumers by increasing customer choice, offering innovative services, and introducing new technologies." *Eighth Annual CMRS Competition Report* at ¶ 13.

Mr. William Maher, Chief
Mr. John Muleta, Chief
CC Docket No. 95-116
August 8, 2003
Page 6

As demonstrated below, numerous ILECs have told Sprint PCS in response to its BFRs that they will not honor the BFR *unless* Sprint agrees to take some action unrelated to LNP. These conditions, imposed unilaterally, are unlawful. LECs are required to provide LNP by statute, and this statute requires LECs to provide LNP "to the extent technically feasible."¹⁶

Sprint demonstrates below that none of the conditions or restrictions which certain ILECs have announced relate to the technical feasibility of land-to-mobile porting. (Again, it is important to note that Sprint's position has the concurrence of both its LEC and CMRS divisions.) Many of the ILEC conditions have no relevance to LNP at all (because they involve interconnection issues that exist whether or not LNP is deployed).

A. Requiring Wireless Carriers to Obtain Additional Telephone Numbers They Do Not Need Is Pointless and Undermines the Commission's Number Conservation Efforts

The most common response to Sprint's BFRs is the carrier's refusal to port because Sprint has not already obtained telephone numbers in the carrier's rate center. For example, one ILEC wrote Sprint:

As Sprint PCS currently does not have any NXXs or thousand blocks of numbers assigned to the rate centers requested, it is our position that until Sprint PCS has established numbers or thousand blocks of numbers assigned to its OCNs 8572 and 8460, within the same rate center, we are not required to port numbers.¹⁷

Nearly identical responses have been received from numerous carriers, including from some smaller wireless carriers.

Whether or not Sprint has numbers (or customers) in a given rate center has nothing to do with the technical feasibility of a LEC porting one of its customer's numbers to Sprint. (Of course, a customer would be interested in porting his number to Sprint only if Sprint provided service in the rate center, since in porting the number, the customer intends to replace landline service with wireless service.)

What this attempted ILEC condition will do is require Sprint and other wireless customers to waste scarce numbering resources. Sprint PCS has numbering resources in less than 10 percent of all ILEC rate centers, and it estimates that roughly half of all Americans in its national footprint would be precluded from porting numbers to it if LECs were authorized to impose the condition. One way for Sprint to meet this LEC condition would be for it to secure new numbers in the over 9,000 rate centers where it does not currently have numbers. However, even assuming that pooling is available ubiquitously, Sprint would need to acquire more than 9,000,000 additional numbers – numbers it does not need to provide its services. Assuming the other five "national" wireless carriers face a similar situation, the equivalent of nearly seven area codes, over 54 million numbers, would be completely wasted. No public interest is served by requiring wireless carriers to engage in such senseless activity.

¹⁶ See 47 U.S.C. § 251(b)(2).

¹⁷ See Appendix F.

B. Direct Connection/Point of Presence

Many carriers have told Sprint in response to its BFRs that Sprint must have a “point of presence” and/or must otherwise connect directly to LEC switch serving the rate center where the customer wishing to port his number is located. For example, in one response to Sprint’s BFR, one LEC stated:

[U]pon Sprint PCS obtaining numbers in the same rate centers as those requested for LNP, [Carrier] will require Sprint PCS to establish an interconnection arrangement as well as a direct network connection to our switching centers in the same rate centers as those requested for LNP prior to implementation of number portability.¹⁸

In other words, this ILEC has decided – unilaterally – that Sprint must abandon its Type 2A (tandem) interconnection for a Type 2B (end office) interconnection even though traffic volumes do not justify a direct connection.

There are numerous defects with this “point of presence”/“direct connection” position. First of all, it has nothing to do with WLNP. If land-to-mobile calls are today routed *via* an indirect interconnection, there is no reason why land-to-mobile calls to ported numbers cannot be routed *via* indirect interconnection after WLNP.

Second, the Commission has confirmed that under the Communications Act, wireless carriers need interconnect only indirectly with other carriers.¹⁹ In fact, the Wireline Bureau has held recently that an ILEC cannot unilaterally force a competitive carrier to use direct connection even when the traffic to a particular ILEC end office exceeds the DS-1 level.²⁰

Third, compliance with this LEC condition would require wireless carriers to establish multiple points of interconnection (“POI”) or points of presence (“POPs”) within a LATA. However, the Commission has consistently interpreted the Act to mean that wireless and other competitive carriers need establish only “one POI per LATA.”²¹

Fourth, FCC rules specify that a LEC “must provide the type of interconnection reasonably requested by a mobile services licensee or carrier.”²² It is thus the wireless carrier, not the LEC, which can determine whether to use Type 2A or Type 2B interconnection with a given LEC.

¹⁸ See Appendix G.

¹⁹ See, e.g., 47 U.S.C. § 251(a)(1); *First Local Competition Order*, 11 FCC Rcd 15499, 15989 ¶ 993, 15991, ¶ 997 (1996).

²⁰ *Virginia Arbitration Order*, 17 FCC Rcd 27039 at ¶ 88 (2002). As the Wireline Bureau further observed, however, carriers are economically incented to connect directly when traffic volumes reach the DS-1 level so the competitive carrier can avoid tandem switching charges. See *ibid*.

²¹ *Unified Inter-carrier Compensation Regime*, 16 FCC Rcd 9610, 9634 ¶ 72 (2001). See also *Virginia Arbitration Order*, 17 FCC Rcd 27039 at ¶ 52 (2002).

²² 47 C.F.R. § 20.11(a). See also *Bowles v. United Telephone*, 12 FCC Rcd 9840, 9849 ¶ 15 (1997) (“LEC is obligated to provide a CMRS provider with the interconnection of its choice upon its request.”); *Third Radio Common Carrier Order*, 4 FCC Rcd 2369, 2376 ¶ 41 (1989).

Finally, FCC rules require the administration of telephone numbers pursuant to industry guidelines.²³ Industry standards acknowledge that carriers provide the routing and rating points for their telephone numbers and that the routing and rating points may be different.²⁴ In other words, industry standards recognize that direct connection is not needed in order to provide services within a given rate center.

In summary, not only is the “point of presence”/“direct connection” position unrelated to the deployment of WLNP, but the Commission would have to revise many of its long-standing interconnection rules in order to uphold the position that certain carriers have adopted in response to Sprint’s BFRs.²⁵

C. Wireless LNP Is Not Location Portability

Qwest has recently argued to the Commission that wireless carriers supposedly seek to provide location portability, not number portability, and that “[e]xpansion of LNP beyond the wireless rate center is *equivalent* to Location Portability.”²⁶ Sprint has similarly received many responses to its BFRs to the same effect—namely, that porting numbers to service providers that do not have numbers in a rate center amounts to location or geographic porting. So the record is clear, Sprint and other carriers are not asking LECs to provide location capability.

The Act defines number portability as the ability of customers “to retain, *at the same location*, existing telecommunications numbers . . . when switching from one telecommunications carrier to another.”²⁷ In contrast, FCC rules define location portability as the ability of customers “to retain existing telecommunications numbers . . . when moving from one physical location to another.”²⁸ Sprint and other wireless carriers simply want LECs to permit their customers to port their numbers to wireless services when a wireless carrier provides its mobile services “at the same location” as the LEC. If, for example, a residential LEC customer wants to substitute his LEC service for wireless service, the customer will necessarily receive wireless service “at the same location” where he received landline service. This constitutes number portability, not location portability.

²³ See 47 C.F.R. § 52.15(d).

²⁴ See Industry Numbering Committee, Central Office Code Assignment Guidelines at §§ 6.2.1, 6.2.2.

²⁵ These interconnection issues were fully addressed in response to the Sprint routing and rating petition filed over a year ago. Sprint encourages the Commission to decide Sprint’s petition. At minimum, the Commission should consider the record developed in response to the Sprint petition if it decides to address routing and rating issues in the context of LNP obligations. See *Public Notice*, Comment Sought on Sprint Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs, CC Docket No. 01-92, DA 02-1740 (July 18, 2002).

²⁶ See, e.g., Qwest Docket No. 95-115 Ex Parte Letters dated July 9, 2003, July 17, 2003, July 18, 2003 and July 24, 2003 (emphasis added).

²⁷ 47 U.S.C. § 153(3)(emphasis added).

²⁸ 47 C.F.R. § 52.21(h)(i).

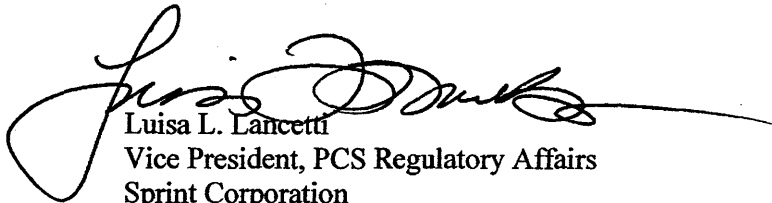
Mr. William Maher, Chief
Mr. John Muleta, Chief
CC Docket No. 95-116
August 8, 2003
Page 9

CONCLUSION

It is apparent from the discussion above, some LECs have determined to adopt a strategy of attempting to restrict the options available to their customers rather than competing in the marketplace.²⁹ The responses to Sprint's BFRs confirm that many LEC customers will be unable to port their numbers to wireless carriers when WLNP is implemented in November – *unless* the Commission intervenes and clarifies that the objections and conditions some carriers have announced they intend to impose are impermissible. Sprint encourages the Commission to promptly enter a declaratory ruling in this case “to terminate a controversy or remove uncertainty.”³⁰

Pursuant to Section 1.1206(b)(1) of the Commission's rules, one copy of this letter is being filed with the Secretary's office for filing in CC Docket No. 95-115.

Respectfully submitted,



Luisa L. Lancetti
Vice President, PCS Regulatory Affairs
Sprint Corporation
401 9th Street, N.W., Suite 400
Washington, D.C. 20004
202-585-1923

Joseph Assenzo, General Attorney
Scott Freiermuth, Attorney
Sprint Corporation
6450 Sprint Parkway
Mail Stop: KSOPHN0212-2A503
Overland Park, KS 66251
913-315-9141

Appendices

²⁹ As noted, some analysts following the conduct of a recent customer survey have determined that “[w]ireline telephone companies face a real competitive threat to their primary fixed line business and need to develop strategies to counter the threat.” PriMetrica Press Release, *More Consumers Likely to Switch Completely from Existing Wireline to Wireless Phone Services; New Research Study from PriMetrica and Ernst & Young Confirms Significant Interest in “Wireless Substitution” or “Displacement”* (May 22, 2003), available at www.primetrica.com.

³⁰ 5 U.S.C. § 554(e).

Mr. William Maher, Chief
Mr. John Muleta, Chief
CC Docket No. 95-116
August 8, 2003
Page 10

cc: Robert Tanner
Carol Matthey
Eric Einhorn
Cheryl Callahan
Matt Brill
Jennifer Manner
Sam Feder
Dan Gonzalez
Scott Bergmann
Barry Ohlson
Bryan Tramont
Christopher Libertelli
Paul Margie
Jessica Rosenworcel
Cathy Seidel
Jared Carlson
Walter Strack
Joseph Levin
Jennifer Tomchin
Jennifer Salhus

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JANET E. WHEELER

OF COUNSEL
RICHARD T. CIOTTONI

June 5, 2003

VIA FEDERAL EXPRESS

Ms. Fawn Romig
Sprint PCS
6580 Sprint Parkway, KSOPHW0516-5B360
Overland Park, KS 66251

Re: Request for Local Number Portability

Dear Ms. Romig:

Our office represents a number of small, rural incumbent local exchange carriers (Small ILECS) who have received what purports to be bonafide request (BFR) from Sprint PCS for implementation of Local Number Portability (LNP). This letter will acknowledge receipt of your correspondence, request further information and raise concerns which the Small ILECs have with respect to these requests. (See Attachment A to this letter for a list of the Small Telcos on whose behalf we are responding.)

At the outset, we note that Sprint PCS's requests are not complete and therefore they do not, in our opinion, constitute a BFR. For each of the Small ILECs listed on Attachment A, Sprint PCS has failed to identify the Sprint PCS NXXs which are assigned to the rate centers where Sprint PCS has requested implementation of LNP.

If Sprint PCS does not have any NXXs which are assigned to the rate centers for which it requests LNP, we believe this constitutes a request for "location portability" as it will require the porting of numbers from one location to another (i.e., from one rate center to another). Location portability is currently not required by the Federal Communications Commission (FCC). As the FCC noted in its First Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 95-116 (released July 2, 1996), location portability poses many problems including: (1) loss of geographic identity of one's telephone number; (2) lack of industry consensus as to the proper geographic scope of location portability; (3) substantial modification of billing

June 5, 2003

Page 2

systems and the consumer confusion regarding charges for calls; (4) loss of the ability to use 7-digit dialing schemes; (5) the need to restructure directory assistance and operator services; (6) coordination of number assignments for both customer and network identification; (7) network and switching modifications to handle a two-tiered numbering system; (8) development and implementation of systems to replace 1+ as toll identification; (9) and possible adverse impact on E-911 services (§ 176). As a result, the FCC declined to require LECs to provide location portability. We also note this issue has been brought to the FCC's attention by the Cellular Telecommunications and Internet Association in a petition for declaratory ruling. Clearly, until such ruling is issued, the Small ILECs are under no obligation to port numbers to remote rate centers.

Should Sprint PCS seek to pursue a BFR and provide the additional information requested herein, there are a number of things which you should also consider. First, the Small ILECs are rural telecommunications carriers as defined in Section 153 of the Telecommunications Act ("the Act"). Accordingly, they are exempt from the requirements of Section 251(c) of the Act. Therefore, if Sprint PCS's request for LNP is accompanied by requests for services covered by Section 251(c) of the Act, the Small ILECs would expect Sprint PCS to follow the procedures outlined in Section 251(f)(b), if it seeks to have the Small ILECs' rural exemption terminated.

As rural carriers, the Small ILECs also have the option to petition their respective state commission(s) for a suspension and/or modification of the services covered under Sections 251(b) and (c) of the Act, including LNP. Suspensions and modifications of Section 251(b) may be granted if the requirement is unduly economically burdensome, is technically infeasible, would lead to significant adverse economic impact on end users, and/or is inconsistent with the public interest, convenience, and necessity. The Small ILECs are of the opinion that implementing LNP would likely be economically burdensome, would cause adverse impact on their users, and would be inconsistent with the public interest given the high cost of LNP deployment, their small customer bases, and the low expected use of LNP in their service territories.

If, after consideration of the above, Sprint PCS still intends to issue a BFR to the Small ILECs for LNP, please send such a request to each ILEC listed on Attachment A and include information requested above, as well as a detailed description of the type of interconnection requested by Sprint PCS, the network facilities it intends to use to achieve portability and an estimate of the number of ported lines, by year, Sprint PCS expects in the affected area over the next five (5) years.

June 5, 2003

Page 3

Should you have any questions regarding this matter, please contact me at the above number.

Sincerely,

TRIP ENGLAND by BM

W.R. England, III

WRE/da

cc: Companies listed on Attachment A

ATTACHMENT A

<u>Company</u>	<u>Contact Person(s) /Address</u>
BPS Telephone Company	W.F.Provance/Lisa Winberry P.O. Box 550 Bernie, MO 63822-0550
Cass County Telephone Company	Becky Matzdorff/Dee Coburn P.O. Box 398 Peculiar, MO 64078
Craw-Kan Telephone Cooperative, Inc.	Jerry James P.O. Box 100 Girard, KS 66743
Fidelity Telephone Company	Dave Boier 64 North Clark Sullivan, MO 63080
Goodman Telephone Company, Inc.	Jay Mitchell P.O. Box 547 Seneca, MO 64865
Granby Telephone Company	Jon Stonffer P.O. Box 200 Granby, MO 64844
Grand River Mutual Telephone Corp. Lathrup Telephone Company	Phil Johnson/Rod Cotton 1001 Kentucky Street Princeton, MO 64673
Kingdom Telephone Company	Tom Blevins/Randy Boyd P.O. Box 97 Aucyvasse, MO 65231
KLM Telephone Company	Bruce Copsy P.O. Box 30 Rich Hill, MO 64779
McDonald County Telephone Company	Ross Babbitt P.O. Box 207 Pineville, MO 64856-0207
New Florence Telephone Company	Ken Matzdorff P.O. Box 175 New Florence, MO 63363-0175
Rock Port Telephone Company	Raymond Henagan P.O. Box 147 Rock Port, MO 64482

Bonafide Request Form (BFR) Checklist & Sample Form

Purpose: The following is a recommended checklist that should be followed when requesting that other service providers support long-term Local Number Portability (LNP) and open **ALL** codes for porting within specified Metropolitan Statistical Areas (MSAs) and the specified wireline switch CLLI (Common Language Location Identifier) codes. This applies to both wireline and wireless requests.

1. Identify the U.S. Census Bureau MSAs for which support of long-term Local Number Portability is being requested.
 - a. Note: The U.S. Census Bureau MSA's may differ from MSAs separately defined by the wireline and wireless industries.
 - b. Note: The FCC mandate does not require proof from the requestor of the potential to support port-ins in the designated MSAs.
2. Identify the codes within the specified MSAs.
3. Check the LERG to verify that the codes are not already open for porting.
4. Complete and submit a Bonafide Request Form (BFR) containing the following information:
 - a. Contact Information: First refer to the WNPO BFR Contact Matrix posted on the NPAC website (under WNPO) for the contact information to be completed for the recipient. If the intended recipient has not provided this contact information to the WNPO, then refer to the contact information in the LERG. It is the responsibility of the intended recipient carrier to ensure that their contact information is up to date.

<u>To (Recipient):</u>	<u>From (Requestor):</u>
i. Contact Name	i. Contact Name
ii. Company	ii. Company
iii. Contact's Address	iii. Contact's Address
iv. Contact's Email	iv. Contact's Email
v. Contact's Fax	v. Contact's Fax
vi. Contact's Phone	vi. Contact's Phone
 - b. Specify the U.S. Census Bureau MSAs for which the BFR recipient should support LNP (for both wireless and wireline recipients).
 - c. Specify the wireline switch CLLI (Common Language Location Identifier) codes for wireline recipients only.
 - d. Specify the date of request.
 - e. Specify the effective date (when switches must be capable and codes must be open for porting) – not less than 6 months from the date of request.
 - f. Specify the actions requested – opening codes in the LERG and NPAC, and ensuring that the switches are LNP capable.
 - g. Specify the Date the Confirmation of Receipt of Request is Due - Confirmation of receipt of request is due within 10 business days.
 - h. Form must state that it is requesting support for deployment of long-term Local Number Portability and site references. (Reference the FCC mandates)
5. Verify confirmation received.

Notes/Clarifications:

- This form is to be submitted for MSAs outside of the top 100. All codes within the top 100 MSA/CMSAs are required to be opened for porting by 11/24/02 (per the NRO – 3rd Report/Order & 2nd Order on Reconsideration in CC Docket 96-98 & 99-200).
- Service Providers (SPs) can set up an effective date in LERG requests to open codes for porting.
- There is no requirement in the FCC orders to prove the potential to port-in customers within the designated area before requesting that a SP open codes for porting.
- SPs can make a request at any time for wireless codes to be open for porting outside the top 100 MSAs, however the time to accommodate that request does not begin until 11/24/02. The time to accommodate similar requests for wireline codes begins on the date the request is received by the wireline carrier.

Bonafide Request Form (BFR)

- SAMPLE FORM -

Purpose: This form is used to request deployment of long-term Local Number Portability as defined in the FCC mandates (CC Docket 95-116). Specifically, this form requests that **ALL** codes be opened for portability within the Metropolitan Statistical Areas and wireline switch CLLI codes designated below. This form may be used for both wireless and wireline requests.

TO (RECIPIENT):

Use the WNPO BFR Contact Matrix info if available, otherwise use the LERG contact info.

Company Name: «OCN_NAME»
Contact Name: «FIRST» «LAST»
Contact's Address: «ADDRESS_1»
«ADDRESS_2»
«CITY», «STATE» «ZIP»
Contact's Email:
Contact's Fax:
Contact's Phone: «PHONE»

FROM (REQUESTOR):

Company Name: Sprint
Contact Name: Fawn Romig
Contact's Address: 6580 Sprint Parkway
KSOPHW0516-5B360
Overland Park, KS 66251
Contact's Email: fromig01@sprintspectrum.com
Contact's Fax: (913) 523-8333
Contact's Phone: (913) 794-9486

Timing:

Date of Request: _____

Receipt Confirmation Due By: _____ (Due no later than 10 days after the Date of Request)

Effective Date: _____ (Not less than 6 months from the Date of Request)

Designated Metropolitan Statistical Areas (MSAs):

To be completed for both wireless & wireline recipients

Note: MSAs refer to the U.S. Census Bureau MSAs. These may differ from the MSAs as separately defined by the wireless or wireline industries.

1st MSA: «MSA»

4th MSA:

2nd MSA:

5th MSA:

3rd MSA:

6th MSA:

Designated Wireline Switch CLLI Codes:

(CLLI – Common Language Location Identifier)

1st CLLI:

4th CLLI:

2nd CLLI:

5th CLLI:

3rd CLLI:

6th CLLI:

Actions Required of the Recipient:

1. Within 10 days of receipt, provide confirmation to the requestor that this form has been received.
2. For **all** currently released codes, and those to be released at any future time, within the designated U.S. Census Bureau MSAs and wireline switch CLLI codes (where applicable), open **all** for porting within the LERG.
3. For **all** currently released codes, and those to be released at any future time, within the designated U.S. Census Bureau MSAs and wireline switch CLLI codes (where applicable), open **all** for porting within the NPAC (Number Portability Administration Center).
4. Ensure that all switches handling codes within the designated MSAs are Local Number Portability capable.



1417 Kresh Ave. Suite 200 - Overland Park, KS 66204 - (913) 305-5352 / (800) 330-5102 FAX

June 2, 2003

Fawn Romig
Industry Compliance and Operational Network Support
Numbering Solutions
Sprint PCS
6580 Sprint Parkway
Mailstop: KSOPHW0516-5B360
Overland Park, KS 66251

Re: LNP Request

Dear Ms. Romig:

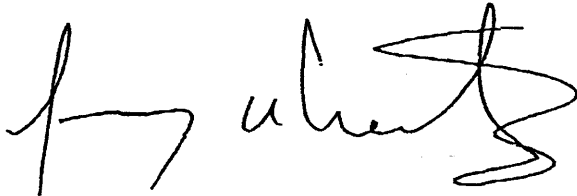
This is in response to your letter dated May 16, 2003 and addressed "To Whom It May Concern." The letter purports to be a bona fide request (BFR) for local number portability. Before this company can accept your letter as a BFR, certain information needs to be provided by you and a traffic exchange agreement must be executed.

First, it is not clear that you are terminating traffic on this company. Please provide information to verify that you are terminating traffic to this company. Please include the date that traffic was first delivered to this company and the volumes of traffic by year.

Second, local number portability is a concept that under 47 U.S.C. 251 involves the exchange of local traffic. This means that a necessary precursor to acceptance of a request for LNP is that a traffic exchange agreement must be entered into between the companies involved. Therefore, we cannot treat your request as a BFR until after the traffic exchange agreement has been executed.

If you have any questions concerning this matter, please contact Jerry Whatley. Questions concerning a traffic exchange agreement should be addressed to our attorney, Richard A. Finnigan, 2405 Evergreen Park Drive SW, Suite B-1, Olympia, WA 98502.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Whatley". The signature is fluid and cursive, with a large, stylized "J" and a long, sweeping underline.

Jerry Whatley, CEO
Local Access Communications

RAF/km

cc: Richard A. Finnigan



Brantley Telephone Company, Inc.

P.O. Box 255
Nahunta, Georgia 31553
Phone 912-462-5111 • Fax 912-462-6135

DR. A. W. STRICKLAND, President
AVERY STRICKLAND, Vice-President
DONOVAN STRICKLAND, Vice-President
ROSEMARY S. STRICKLAND, Secretary
JOSEPH LIGHTSEY, Plant Manager
SUE MOORE, Office Manager

May 23, 2003

Ms. Fawn Romig
Industry Compliance and Operational Network Support
Numbering Solutions
Sprint PCS
6580 Sprint Parkway
Mailstop: KSOPHW0516-5B360
Overland Park, KS 66251

Dear Ms. Romig:

This letter is to confirm that Brantley Telephone Company, Inc. ("Brantley") has received Sprint PCS' request for long-term number portability (LNP), dated May 16, 2003. Brantley will satisfy its obligations for implementing LNP, in accordance with the Federal Communications Commission's requirements as requested by Sprint PCS. However, before LNP is turned up for service, our two companies will need to negotiate an agreement that addresses interconnection as well as operations issues.

Sincerely,

Brantley Telephone Co.

To Whom It May Concern:

In July, 2002, the FCC mandated that all carriers in the top one hundred (100) Metropolitan Statistical Areas (or MSAs) implement Wireless Local Number Portability (WLNP) by November 24, 2003. Pursuant to this FCC mandate, Sprint PCS (SPCS) has identified you as a potential Trading Partner. As such, **SPCS would like to exchange the necessary information to allow porting** to be tested and placed into production between us on November 24, 2003. In addition, **SPCS is willing to negotiate an Operating Agreement with you** as a means of finalizing a mutually acceptable porting arrangement on a separate schedule and through a different mechanism.

The enclosure contains SPCS's contact and connectivity information needed to initiate porting. SPCS requests that you provide your contact and connectivity information and return same within ten (10) business days. Please return to *Peter Jacklin* or *Hal Weintrub*, via FAX (as detailed below). If you prefer email correspondence, please contact either individual for a "soft copy" of the file.

The individuals responsible for exchanging Trading Partner porting information and who will be contacting you in the near future are:

Peter Jacklin

--or--

Hal Weintrub

Phone: (913) 307-7356

Phone: (913) 307-7379

FAX: (913) 307-7447

FAX: (913) 307-7447

pjackl01@sprintspectrum.com

hweint01@sprintspectrum.com

The contact to initiate negotiations of an Operating Agreement between our companies is:

Jack Weyforth

Phone: (913) 315-9591

FAX: (913) 315-0785

jweyfo01@sprintspectrum.com

In general, SPCS follows industry guidelines for Wireless-to-Wireless and Wireless-to-Wireline porting. This includes industry-standard modes of connectivity, forms, form versions, and business rules.

Thank you very much and we look forward to establishing a porting relationship with you.

Sincerely,

Jack Weyforth
Manager, Carrier & Interconnection Management
6450 Sprint Parkway
KSOPHN0212-2A411
Overland Park, KS 66251

Encl: Trading Partner Profile for Porting

Trading Partner Profile for Porting between Sprint and <Trading Partner>

C O N T A C T	Item	Sprint	<Trading Partner>
	Effective Date		
	Primary contact name	Porting Center	
	Contact description	Porting Center	
	Phone number #1	Tbd	
	Phone number #2		
	FAX number	813-273-3403 (will change 3Q03)	
	Email address		
	Other		
	Note: The primary contact is also assumed to be the first point of contact for profile changes.		
S E C O N D A R Y	Secondary contact name	Network Operations Center	
	Contact description	Network Operations Center	
	Phone number #1	800-892-2888	
	Phone number #2	813-273-3440	
	FAX number	813-273-3570	
	Email address	Netops@tsiconnections.com	
	Other	Hotline@tsiconnections.com	

O P E R A T I O N S	Item	Sprint	<Trading Partner>
	... Common ...		
	Operating Company No. (OCN)	See following list of OCNs	
	Administrative OCN	6664	
	Wireless or Wireline	Wireless or Wireline	
	Holiday Days (mm/dd/yy)	Standard NPAC holiday schedule	
	Holiday time begin (hh:mm)	17:00 EST on business day before	
	Holiday time end (hh:mm)	8:00 EST on business day after	
	... for Test ...		
	Service Provider ID (SPID)	Primary: 9990, Secondary: 7778	
	LSMS SPID	7777	
	LSR Version ID	Industry supported, prefer LSOG 5	
	FOC Version ID	Industry supported, prefer LSOG 5	
	WICIS Version ID	2.0	
	Time Zone (PST, MST, CST, EST)	CST	
	Business days (Sun, Mon, etc.)	Monday through Friday	
	Business day begin (hh:mm)	7:00 CST	
	Business day end (hh:mm)	16:00 CST	
	... for Production ...		
	Service Provider ID (SPID)	6664	
	LSMS SPID	0661	
	LSR Version ID	Industry supported, prefer LSOG 5	
	FOC Version ID	Industry supported, prefer LSOG 5	
	WICIS Version ID	2.0	
	Time Zone (PST, MST, CST, EST)	CST	
	Business days (Sun, Mon, etc.)	24x7 except NPAC maintenance	
	Business day begin (hh:mm)	hours	
	Business day end (hh:mm)		

C O R B A	Item	Sprint	<Trading Partner>
	... for Test ...		
	Porting Method: Primary, Secondary, N/A	Current, Telcordia SMG 4.0 & 4.1, Future = SMG 4.2 (~Sep, 2003)	
	ICP Package/Application ("send to")	SMG 4.0/4.2: 205.174.182.182 SMG 4.1: 205.174.188.227	
	ICP Physical Server ("receive from")	SMG 4.0/4.2: 205.174.182.180 SMG 4.1: 205.174.188.229	
	Failover ICP Server	SMG 4.0/4.2: 205.174.182.178 SMG 4.1: 205.174.188.228	
	SOA Application	SMG 4.0/4.2: 205.174.182.181 SMG 4.1: 205.174.188.226	
	SOA Server	SMG 4.0/4.2: 205.174.182.178 SMG 4.1: 205.174.188.228	
	Failover SOA Server	SMG 4.0/4.2: 205.174.182.180 SMG 4.1: 205.174.188.229	
	Application Port Information	29990 (setup as "2" + SPID)	
	Naming Service / IOR	Static IP (or N/A)	
	DLCI	N/A	
	LDAP Provider	N/A	
	Security Requirements	N/A	
	Firewall Requirements	Allow TCP and UDP traffic	
	SSL Requirements	N/A	
	Proprietary Requirements	N/A	
	Service IDL version	N/A (Currently at 2.0 ??)	
	Implementation OMG standard compliant?	Yes	
	... for Test OMG CORBA Standards Supported ...		
	Vendor	Product Name/Version	OMG CORBA Version IIOP Version
	Borland	CORBA	
	... for Production ...		
	Porting Method: Primary, Secondary, N/A	Current, Production = SMG 4.0 Future = SMG 4.1 (mid-July) SMG 4.2 (~October, 2003)	
	ICP Package/Application ("send to")	SMG 4.0: 205.174.185.139	
	ICP Physical Server ("receive from")	SMG 4.0: 205.174.185.237	
	Failover ICP Server	SMG 4.0: 205.174.185.236	
	SOA Application	SMG 4.0: 205.174.185.138	
	SOA Server	SMG 4.0: 205.174.185.236	
	Failover SOA Server	SMG 4.0: 205.174.185.237	
	Application Port Information	29990 (setup as "2" + SPID)	
	Naming Service / IOR	Static IP (or N/A)	
	DLCI	N/A	
	LDAP Provider	N/A	
	Security Requirements	N/A	
	Security Requirements	N/A	
	Firewall Requirements	Allow TCP and UDP traffic	

	SSL Requirements	N/A	
	Proprietary Requirements	N/A	
	Service IDL version	N/A (Currently at 2.0 ??)	
	Implementation OMG standard compliant?	Yes	
	... for Test OMG CORBA Standards Supported ...		
	Vendor	Product Name/Version	OMG CORBA Version
	Borland	CORBA	IIOP Version

F A X	Item	Sprint	<Trading Partner>
	... for Test ...		
	Porting Method: Primary, Secondary, N/A		
	FAX number	813-273-3403	
	Backup FAX number	Tbd	
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		
	FAX number	Tbd	
	Backup FAX number	Tbd	

E D I	Item	Sprint	<Trading Partner>
	... for Test ...		
	Porting Method: Primary, Secondary, N/A		
	Specific EDI Requirements	Tbd or ExchangeLink ???	
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		
	Specific EDI Requirements	Tbd or ExchangeLink ???	

O T H E R	Item	Sprint	<Trading Partner>
	... for Test ...		
	Porting Method: Primary, Secondary, N/A		
	Other Communication Requirements	IBM MQ Websphere 5.2/5/3 Exchange Queue Name, Queue Manager, and a channel	
	... for Production ...		
	Porting Method: Primary, Secondary, N/A		

Other Communication Requirements	IBM MQ Websphere 5.2/5/3 Exchange Que Name, Que Manager, and a channel	
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The parties agree that information contained in the Trading Partner Profile is operational in nature and subject to change. The parties agree to make every effort to give the other party 30 days notice of any changes to its information.

Sprint OCNs

OCN:	OCN:	OCN:	OCN:	OCN:	OCN:	OCN:	OCN:
4058	4060	4061	4064	4065	4066	4098	4099
6032	6664	6982	8440	8441	8442	8443	8444
8445	8446	8447	8448	8449	8450	8451	8452
8453	8454	8455	8456	8457	8458	8459	8460
8461	8462	8463	8564	8566	8567	8568	8570
8571	8572	8574	8575				

Information Required for Logging Trouble Tickets

Sprint PCS:

- Customer name and organization.
- Full description of the issue and expected results.
- Steps to reproduce the issue and relevant data.
- All applicable issue, log, and system files.
- Any special circumstances surrounding the discovery of the issue (e.g., first occurrence or occurred after what specific event).
- Customer's business impact of problem and suggested priority for resolution.

Trading Partner:

- Customer name and organization.
- Full description of the issue and expected results.
- Steps to reproduce the issue and relevant data.
- All applicable issue, log, and system files.
- Any special circumstances surrounding the discovery of the issue (e.g., first occurrence or occurred after what specific event).
- Customer's business impact of problem and suggested priority for resolution.

Porting Validation Standards

Information Required for Port Validation:

Sprint PCS:

Last Name or Business Name

Zip Code

SSN or Tax ID or Acct. No.

MDN

If corporate liable - a password or pin number.

Trading Partner:

Porting Business Rules **Exhibit E**

Sprint PCS:

- Complex Ports – Sprint PCS will accept only single line ports. Multiline ports must be submitted as multiple single line ports.
- Resellers – Sprint PCS will accept port requests on behalf of our resellers, however all validation is based on the resellers' processes.

Trading Partner:

- TBD

ENMR·PLATEAU



May 30, 2003

Ms. Fawn Romig
Industry Compliance and Operational Network Support
Numbering Solutions
Sprint PCS
6580 Sprint Parkway
Mailstop: KSOPHW0516-5B360
Overland Park, KS 66251

Dear Ms. Romig:

This letter is to notify Sprint PCS that ENMR Telephone Cooperative is in receipt of your request for local number portability (LNP) in the exchange of Farwell, TX.

As Sprint PCS currently does not have any NXXs or thousand blocks of numbers assigned to the rate center requested, it is our position that until Sprint PCS has established numbers or thousand blocks of numbers assigned to its OCNs 8572 and 8460, within the same rate center, we are not required to port numbers.

Additionally, upon Sprint PCS obtaining numbers in the same rate centers as those requested for LNP, ENMR Telephone Cooperative will require Sprint PCS to establish an interconnection arrangement as well as a direct network connection to our switching center in the same rate center as those requested for LNP prior to implementation of number portability.

If you have questions, please feel free to contact me at 505-389-4211.

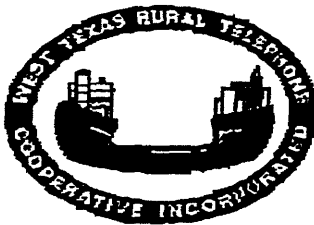
Sincerely,

A handwritten signature in cursive script, appearing to read "Launa Waller".

Launa Waller
Manager of Regulatory Information
ENMR Telephone Cooperative

West Texas Rural Telephone Cooperative Incorporated

P.O. Box 1737 South Hwy. 385 Hereford, TX 79045-1737
Office: (806) 364-3331 FAX: (806) 276-5219



June 2, 2003

Ms. Fawn Romig
Industry Compliance and Operational Network Support
Numbering Solutions
Sprint PCS
6580 Sprint Parkway
Mailstop: KSOPHW0516-5B360
Overland Park, KS 66251

Dear Ms. Romig:

This letter is to notify Sprint PCS that West Texas Rural Telephone Coop., Inc. (WTRT) is in receipt of your request for local number portability (LNP) in the exchanges of Dawn, Oklahoma Lane, Summerfield, and Tharp.

As Sprint PCS currently does not have any NXX's or thousands block of numbers assigned to the rate centers requested, it is our position that until Sprint PCS has established numbers or thousands block of numbers, assigned to your OCN - 8460, within the same rate centers we are not required to port numbers.

Additionally, upon Sprint PCS obtaining numbers in the same rate centers as those requested for LNP, WTRT will require Sprint PCS to establish an interconnection arrangement as well as a direct network connection to our switching centers in the same rate centers as those requested for LNP prior to implementation of number portability.

Sincerely,

Patti Dirks
Access Coord.
West Texas Rural Telephone Coop, Inc.